

REMARKS

Claims 1, 3-22 and 24-35 are pending in the application. Claims 1, 24 and 32 are independent claims. Claims 32-35 have been withdrawn from consideration as directed to a non-elected invention. Claim 3 is canceled herewith.

As an initial matter, the Applicants submit that the finality of the rejection is improper. In the last office action, the examiner issued *for the first time* a restriction requirement. The applicants withdrew the 32-35 from examiner. However, those claims are still in the case as withdrawn.

In the previous action the examiner also rejected claim 32 but provided little guidance for the grounds of rejection. Rather, the examiner indicated that claim 32 was rejected on grounds similar to those of previous claims. Nevertheless, claim 32 recites:

requesting a service to be performed by the first digital device
after receiving the indication that the event has occurred

The examiner responded by restricting those claims from the application. Accordingly, the examiner has tacitly issued a new ground of rejection that was not necessitated by Applicants amendment. That is claims 32-35 no longer stand rejected in view of Bracho. Consequently, the examiner has issued a new ground of rejection in this office action, rendering the finality improper. Applicants request reconsideration of the finality of the rejection.

Moreover, the examiner has indicated that claims 1, 3-22 and 24-31 are rejected. However, the examiner provided no statutory basis for the rejection of claims 5, 17, 27 and 33. For that additional reason, Applicants submit that the finality of the rejection is improper.

Claim Objections

Claim 3 is objected to because of informalities. Applicants have canceled claim 3 and believe that the objection is overcome.

Claim Rejections - 35 USC §112

Claim 3 stands rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In particular the examiner maintains that claim 3 recites the limitations “the sequence number” and “the at least two event messages” which the examiner maintains lack proper antecedent basis.

The examiner maintains that claim 3 is also indefinite because it is unclear whether the “at least two event messages” recited in claim 3 is the same as the “at least two event messages” recited in parent claim 1. Applicants respectfully disagree because the claim context makes clear where the at least two event message originate. Nevertheless, in order to expedite prosecution, the Applicants have incorporated claim 3 into claim 1 and amended the claim to differentiate that the second at least two event messages are different from the first at least two event messages by labeling the second at least two event message as “another.”

Reconsideration of the 112 rejection is respectfully solicited.

Claim Rejections - 35 USC § 102

Claims 1, 3-4, 6-16, 18-22, 24-26, and 28-31 stand rejected under 35 U.S.C. 102(b) as being anticipated by Bracho et al (U.S. Patent No. 5,974,417).

Claim 1 has been amended to incorporate the limitations of dependent claim 3 in order to expedite processing and further clarify the patentable distinction over Bracho. This further clarification indicates that at least one distinction over Bracho is that the event sequence numbers ***are subscription based*** in the present claim 1. For example, claim 1 recites in part:

subscribing to a first event source to create a first event subscription;
receiving at least two event messages each comprising a subscription based-sequence number and a time stamp from the first event source when events occur at the first event source;

The examiner indicated that Bracho teaches the above recited limitations in Figure 9, abstract, and column 14, lines 6-18 of Bracho. Applicants disagree that Bracho teaches determining the order of events on the basis of subscription-based sequence numbers as claimed. The examiner points to Col. 4, ll. 50-52. However, that portion of Bracho indicates that publishers and subscribers are “unaware of each other’s existence”; consequently, it does not follow then that the sequence numbers would be based on the subscription. Moreover, in the response to arguments, the examiner cites to Col. 15, ll. 36-39. But that portion of Bracho

just indicates that the publisher assigns a sequence number to an event and says nothing of subscription-based numbers. Claim 1 requires that the sequence numbers be subscription based and not merely assigned by a publisher. For that reason alone, Applicants submit that claim 1 patentably defines over Bracho. Likewise, claim 24 also requires subscription-based sequence numbers.

Additionally, as previously indicated by Applicants, the cited portion of Bracho teaches that duplicate events are discarded on the basis of sequence numbers, but not that the sequence numbers are used for ordering events. Moreover, column 10, lines 1-19 teaches that:

all events having the same priority level will be delivered by the hub 106 in the order that they are accepted by the publisher.... Inter-publisher ordering is not guaranteed, since it depends on routing and availability issues.

The cited portion of Bracho therefore seems to teach away from the notion of ordering events on the basis of a sequence number. For at least that reason, Applicants submit that claim 1, as amended, patentably defines over Bracho. Similarly, independent claim 24 also patentably defines over Bracho for similar reasons. For example, claim 24, recites in part:

said first digital device subscribing to a first event source operating on the second digital device whereby the first digital device receives event notification messages each comprising a sequence number and a time stamp from the first event source when events occur on the first digital device

The examiner responded to that argument by indicating that it is “well known to one skilled in the art” that “a sequence number is used to determine order.” Applicants remind the examiner that the stated rejection is a § 102 rejection and not a § 103 rejection. Therefore, the examiner must find what Bracho disclosed and not what is well known to one skilled in the art. If the examiner is applying a § 103 rejection then Applicants submit that the rejection is improperly based on § 102. Section § 103 requires a determination of the level of skill in the art. The examiner has not done that here.

Inasmuch as claims 4, 6-16, 18-22, 24-26, 28-31, and 34-35, depend from independent claims 1, 24, and 32, Applicants submit that they also patentably define over Bracho at least for the same reason as their respective independent claim.

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37 CFR § 1.116**

Claims 5, 17, 27 and 33 were rejected but no basis was provided. Accordingly, Applicants have no basis to respond.

Nevertheless, inasmuch as they depend from their respective independent claims, Applicants submit that they also define over Bracho.

CONCLUSION

Claims 1, 4-22, 24-31 are in condition for allowance. An early notification of allowance is respectfully requested.

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